UNITED
NATIONS

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Security Council

Distr.
GENERAL

S/24276
13 July 1992
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 13 JULY 1992 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I wish to transmit herewith a letter dated 11 July 1992 from Mr. Ahmad Hussein, Minister for Foreign Affairs of the Republic of Iraq, concerning the continuation of the economic embargo against Iraq despite its compliance with the provisions of Security Council resolution 687 (1991).

I should be grateful if you would kindly have this and the attached letter circulated as a document of the Security Council.

(Signed) Abd al-Amir AL-ANBARI
Ambassador
Permanent Representative

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Annex

Letter dated 11 July 1992 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General

On 2 August 1992 the Security Council was seized with what is referred to as the question of the situation between Iraq and Kuwait. Since that time the Council has issued a number of resolutions imposing on Iraq a set of obligations from which there arises between the Council and Iraq a specific relationship, presumably governed by the provisions of the Charter of the United Nations.

After this lengthy period, it is time to establish certain facts, in particular those which are not subject to any interpretation, including the following:

I. The Charter of the United Nations, like any charter by which independent, fully sovereign States are bound, is two-sided, involving both rights and obligations. The provisions of the Charter of the United Nations are, or are deemed to be, balanced in this respect; consequently, when the Security Council demands on the part of any State the performance of its obligations with respect to the Council, the Council has the obligation to uphold the rights of that State.

It is obvious, as far as the relationship between the Security Council and Iraq is concerned, that, leaving aside the question of the extent to which the Security Council resolutions are in keeping with the articles of the Charter of the United Nations - a matter dealt with in our numerous notes to the Secretary-General of the United Nations - Iraq undertook to comply with those resolutions when they were imposed upon it and has in fact complied with them in the manner stated to the Security Council in our letter to you dated 23 January 1992 and on the occasion of the visit of the Iraqi delegation headed by Deputy Prime Minister Tariq Aziz to New York in March 1992. Furthermore, Iraq, through the Deputy Prime Minister, has given assurance of its willingness to cooperate earnestly and constructively with the Security Council and the bodies representing it in proceeding with execution.

Some of the most important things achieved pursuant to resolution 687 (1991) are:

(1) All weapons in Iraq's possession which are prohibited under resolution 687 (1991), namely missiles with a range greater than 160 kilometres and stocks of chemical weapons, have been destroyed;

(2) Facilities and equipment connected with the production of long-range missiles and those connected with the use of chemical weapons have been destroyed;

(3) Iraq has not produced any bacteriological (biological) weapons, a fact which has been established by scientific and technical means;

furthermore, equipment which might be said to have the capacity to produce such weapons has been destroyed;

(4) Facilities and equipment connected with Iraq's nuclear programme concerning which there have been doubts and suspicions have been destroyed;

(5) The competent Iraqi authorities have furnished most of the information requested by the inspection teams and answered thousands of questions posed by them.

The information concerning which there is still disagreement relates to the request of the Special Commission and the International Atomic Energy Agency to be provided with the names of the foreign companies from which Iraq purchased some of the facilities and equipment for its arms programme and the names of persons of other countries who cooperated with Iraq in that programme.

Iraq has declined to reveal that information on moral grounds and will not step back from that position.

Disclosing the names of foreign companies and persons who cooperated with Iraq would expose many of them to the danger of liquidation by Israeli intelligence, as has happened in the case of some, such as Dr. Bull.

In view of these facts, whoever demands that Iraq should fulfil its obligations or fulfil the obligations imposed on it ought, more than anyone else and for obvious reasons, avidly to defend Iraq's rights under the Charter of the United Nations. The failure of the Security Council to respect that balance upsets the legal basis on which the Security Council founded the resolutions with which Iraq and others are being asked to comply. Therefore, no State is fully convinced regarding the continued performance of any obligation by it in respect of the resolutions of the Security Council. Thus, States bound by a relationship with the Security Council, such as Iraq, will proceed from what is possible and not possible, on the basis of capability and opportunity, in respect of the obligations imposed upon it by the Security Council, not on the basis of the covenants governing the relationship between the Council and States. The ground for this is that the Council itself has violated the legal basis and resorted to a basis of the possible and the impossible, particularly in its insistence on threatening to use force in lieu of a policy of mutual understanding based on the Charter of the United Nations and on depriving the people of Iraq of their most elementary human rights, as provided by the Charter.

II. In order to arrive at a firm conviction, let us turn to the charges levelled by some States members of the Council which wish to make it appear that Iraq's compliance with the resolutions is not complete and which make this charge a pretext for the continuation of the embargo against Iraq. We say that no one can deny the obligations discharged so far by Iraq. Accordingly, the maintenance of the embargo against Iraq up to the present time means that no level of implementation will alter the reality of the embargo in the least. In other words, implementation and non-implementation

amount to the same thing. Can the Security Council convince the States of the world, including Iraq, after this experience that there is any inducement to implement the resolutions that it adopts?

III. The United Nations Charter stipulates that the right of every human being to a livelihood is guaranteed. This right has now become relative with regard to necessities. A human being is not like an animal, with a specific type and quantity of food sufficing for a livelihood. It is self-evident that the Charter holds all men equal, regardless of the nationality they hold and the State to which they belong. Other rights therefore derive inevitably from this, so that man may live a life that realizes the human essence of the United Nations Charter. These include the level of cleanliness and the type of water he uses in his daily life, the standard of health that he should enjoy and other essential needs. In this regard, it is that the reference point for the realization of these essential needs is the level of the needs of human beings in the developed countries.

After the embargo imposed on Iraq since 6 August 1990 had remained as it was, unchanged from the initial format, in spite of Kuwait's return to the state desired by those who so zealously promoted the Security Council resolutions, and because Iraq's assets had in practice not yet been liberated, owing to the position of the States with which they were deposited, and for other reasons, the idea arose, last year, 1991, of exporting a quantity of Iraqi oil over a period of six months for the purchase of medicines and food for the people of Iraq. Although that goal is very modest by comparison not only with Iraq's actual requirements in all areas but also by comparison with the urgent humanitarian needs of the people of Iraq that must be met to ensure a minimum of humanity in accordance with the United Nations Charter, the idea evolved into two resolutions adopted by the Security Council under Chapter VII, namely, 706 (1991) and 712 (1991), which contain many political and practical conditions and restrictions that seek to strip the people of Iraq of the sovereignty which it won long ago and has maintained up to the present and in defence of which it has resisted colonialist and neocolonialist alike. Recently, the issue has developed into controversy, negotiations and pressures that have lasted for nearly a year. Here we find ourselves in the second half of 1992, and the urgent essential needs of the people of Iraq have not been met for the second half of 1991. The course of the negotiations that took place with the representatives of the United Nations Secretariat between January and June 1992 has led us to the conclusion, based on facts and information, that the purpose of the formula that some wish to impose on Iraq is not a humanitarian purpose involving the provision of a portion of the urgent humanitarian needs of the people of Iraq. The purpose is not the implementation of the United Nations Charter in this matter, but impairment of the independence of Iraq, intervention in its internal affairs and control over its future, in accordance with the unlawful wishes of certain influential States in the Security Council.

The most recent formula, presented to us after three rounds of negotiations between representatives of the United Nations and representatives of Iraq, contains a very long series of restrictions and complexities which

make it doubtful that the people of Iraq will benefit from the revenues from the quantity of petroleum exported over six months for the purchase of food and medicine. The numerous restrictions and complexities included in that formula expose the purchase, shipment and distribution of food and medicine to a great many possibilities for their hindrance or stoppage, to say nothing of the high prices that will be imposed on Iraq by suppliers, because of the complexities involved and the possible suspension of contracts and interference with them, and will reduce the actual purchasing value of the already paltry sum that will theoretically be made available to Iraq through this outlandish procedure.

Any step in the procedure in question, however small, is controlled by the supervision and power of acceptance or rejection of a number of parties (the Sanctions Committee of the Security Council, the observer at the port from which petroleum is exported, the inspectors monitoring goods at the port of loading and the point of entry to Iraq and the observers that the United Nations wishes to impose inside Iraq), and there are, in addition, the banking complexities that the formula contains. In fact, the only thing in the procedure that is guaranteed is the deduction of amounts from Iraq for the payment of so-called compensation and expenditure on United Nations activities which come to more than 30 per cent of the amount realized from the sale of the petroleum.

Having studied the question in a fully responsible manner, we therefore feel that the people of Iraq will obtain none of its urgent humanitarian needs through a procedure that will, in reality, be an operation to delude world public opinion that the embargo against Iraq has been eased although this is not so. Accordingly, the sound and workable course and one that will eliminate all suspicions and doubts and answer the entitlement to treatment in accordance with the standards of all humanitarian instruments, including the Charter of the United Nations, is for the Security Council to allow Iraq to export its petroleum in a normal and regular manner, just as it did before the events of August 1990, so that its people may have its humanitarian due. If the United Nations wishes to deduct a certain percentage, such as that imposed by the Security Council in its resolutions, an understanding can be reached thereon in an uncomplicated manner. If the Council finds it necessary to withhold any item from Iraq for any reason, it can oblige the countries of the world to observe such a prohibition, if indeed this is the intention and there is no other, different, intention. Further, Iraq is prepared, as it has already stated, to restrict its sales and purchases, for a particular period of time to be agreed upon, to the countries that are now members of the Security Council and with most of which Iraq had commercial dealings before the imposition of the embargo. These will be the countries participating in the adoption of resolutions and the monitoring of their implementation in order to ensure the propriety of the commercial transactions to be conducted by Iraq in accordance with commercial principles.

IV. It is clear and well established that in its resolutions the Security Council used the issue of Kuwait as a basis, or thus it declared to world public opinion. Among its resolutions are those on the embargo against Iraq.

It is also established that, in accordance with the foregoing, Iraq has met its obligations towards the resolutions of the Security Council, as we have indicated. Regardless of anything else, it is an established fact that Kuwait has been restored to the situation desired by influential parties in the Security Council. The maintenance of the embargo against Iraq has therefore lost its meaning, and it is henceforth no more than a simple matter of inflicting harm on a great, proud and noble people. There is no provision for such an act, either explicitly or implicitly, in the Charter of the United Nations or the resolutions of the Security Council, and, as we have said in section I above, its continuation destroys the legal basis of the Security Council resolutions and accords Iraq, if it should wish, the right to act towards those resolutions on a basis of ability and opportunity and not on the basis of a persuasive legal obligation. We are therefore of the view that the Security Council should terminate the effect of all of its resolutions against Iraq that were brought into being by previous circumstances, including the embargo resolution, and that matters should be restored to their situation prior to the events of August 1990. To maintain that the retention of the embargo would achieve any of the declared objectives of the Security Council, would plunge the Council into a paradox of a kind that would at the very least be an embarrassment to it. In the past, those who are influential in the Council persuaded those whom they persuaded by saying that nothing would be of avail in ensuring the implementation of the Council's resolutions other than the use of military force against Iraq. Those who used military force then used it on the night of 16-17 January 1991, and this continued until those who led the campaign ceased firing. If, then, an embargo is the means by which the Security Council seeks to achieve its objectives, why did it inflict on the international community all that it inflicted on it and why did it subject the people of Iraq to its plight of aggression and suffering?

Accept, Sir, the assurances of my highest consideration.

(Signed) Ahmad HUSSEIN
Minister for Foreign Affairs
of the Republic of Iraq